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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,506	11/12/2003	Tetsuo Take	32307-198662	1163
26694	7590	04/03/2008		
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER MERCADO, JULIAN A	
			ART UNIT	PAPER NUMBER
			1795	
			MAIL DATE	DELIVERY MODE
			04/03/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/705,506

**Applicant(s)**

TAKE, TETSUO

**Examiner**

JULIAN MERCADO

**Art Unit**

1795

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 12-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 12-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 11, 2008 has been entered.

Claims 1-6 and 12-35 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 and 12-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As set forth in the Advisory Action of March 3, 2008, the present amendment now reciting the first power generating means being adjacent said reforming means does not appear to be supported by the cited portion of the specification (page 32 line 25 to page 33 line 2) provided for by applicant. The examiner additionally notes that the request for

continued examination merely entered the previously submitted amendment filed on January 11, 2008 with no additional remarks directed to the forthcoming (and now instant) 35 U.S.C. 112, first paragraph rejection, as previously set forth in the Advisory Action.

The lengthy specification totaling 133 pages is once again noted; applicant's assistance in providing citations to the disclosure in support of any arguments or amendments is again requested—to do so would allow the examiner to more efficiently evaluate the claims and its compliance with the patent statutes.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xu (U.S. Pat. 6,551,732 B1) in view of Morimoto et al. (U.S. Pat. 5,221,586).

The rejection is maintained for the reasons of record. Notwithstanding the 35 U.S.C. 112, first paragraph rejection of the present amendment now reciting the power generating means being adjacent said reforming means, as the examiner is precluded from interpreting this limitation in light of applicant's disclosure, this term has been given its broadest reasonable interpretation such as set forth in Merriam-Webster's dictionary. The definition therein (available online at <<<http://www.merriam-webster.com/dictionary/adjacent>>>) is set forth as something which is "not distant"; "adjacent may or may not imply contact but always implies

absence of anything of the same kind in between”, e.g. “a house with an *adjacent* garage.” (emphasis in original) Thus, the power generating means [3] in Xu is considered adjacent the reforming means [6] insofar as both being part of the integrated fuel cell system and are therefore not distant relative to each other, and given that there is the absence of anything of the same kind, e.g. another fuel cell or another reforming means, in between.

Applicant’s arguments filed with the present amendment have been fully considered, however they are not found persuasive. Applicant submits that Xu does not disclose a fuel cell stack near a reformer. In reply, if the claims called for the fuel cell to be near a reformer, the term “near” would raise 35 U.S.C. 112, second paragraph concerns given that this term is a relative term or term of degree, absent of a concise definition in applicant’s specification for this term. More precisely, if applicant is submitting that the fuel cell is not *adjacent* the reformer as actually presently claimed, the examiner maintains that the patentees teach this configuration in a manner consistent with this term’s dictionary definition, for the reasons set forth in the immediately preceding paragraph. The examiner further notes that col. 3 line 56 et seq. was relied upon by the examiner in citation towards other portions of the claim (see the December 1, 2006 Office action on page 5) and not in support of the presently amended claims, as applicant appears to otherwise assert.

The remaining arguments, e.g. that Xu does not teach a second power generating means, appear to have been previously submitted and to this end, the examiner maintains the detailed reasons in consideration of these same arguments as set forth on page 3 of the October 11, 2007 Office action.

Claims 3 and 6 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Xu in view of Morimoto et al. as applied to claims 1, 2, 4, 5, 7 and 8 above, and further in view of Gagnon (U.S. Pat. 4,098,960).

Claims 12-19 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xu in view of Morimoto et al. as applied to claims 1, 2, 4, 5, 7 and 8 above, and further in view of Scheffler et al. (U.S. Pat. 4,859,545).

Claims 20, 21-23 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xu in view of Morimoto et al. and Gagnon as applied to claims 3, 6 and 9 above, and further in view of Scheffler et al. (U.S. Pat. 4,859,545).

The rejections when further in view of Gagnon and Scheffler et al. are maintained for the reasons of record. It is noted that arguments submitted for the tertiary references merely assert that these references fail to remedy alleged differences in Morimoto et al. from the claimed invention, herein maintained for the reasons set forth *supra*.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

/J. M./

Examiner, Art Unit 1795

/PATRICK RYAN/

Supervisory Patent Examiner, Art Unit 1795